

---

---

## **9. HMS PERMITS**

---

---

### **9.1 Capacity in HMS Fisheries**

One major concern in the management of commercial fisheries is overcapitalization. Limited access and permitting mechanisms are ways of addressing the “too many fishermen chasing too few fish” dilemma that faces many of the world’s fish stocks. Overcapitalization and open access fisheries are associated with many problems, including derby fisheries and market gluts, poor product quality, safety concerns, and loss of market niches due to shortened fishing seasons and reliance on imported fish. To date, HMS has responded to overcapitalization issues through a variety of methods in addition to limited access to swordfish, shark, or tuna longline permits. Individual Vessel Quotas (IVQs) for bluefin tuna purse seiners were implemented in 1982 to exclude new entrants into the fishery. In 1991, NMFS established a control date for the swordfish fishery (August 30, 1991). After this date, new vessels entering the Atlantic swordfish fishery were not guaranteed future access to the fishery. In 1994, NMFS established a control date for the shark fishery (February 22, 1994). In 1995 and 1996, NMFS held a number of workshops to discuss limited access in the Atlantic HMS fisheries. In addition, NMFS published a concept paper on limited access for Atlantic HMS (NMFS, 1995) and established a control date (September 1, 1994) for the Atlantic tunas fisheries. More recently, on July 1, 1999, NMFS implemented a limited access program for the commercial Atlantic shark, swordfish, and Atlantic tunas longline category fisheries.

As a result of an international effort begun by FAO in 1998 to develop definitions and metrics to measure fishing capacity and NOAA’s Build Sustainable Fisheries (BFS) objective to eliminate excess capacity in 20 percent of federally managed fisheries by 2005, NMFS developed a project to define and measure domestic fishing capacity to determine which U.S. fisheries have excess capacity and the magnitude of the problem. A task force was assembled to develop capacity definitions and to recommend measures and metrics with which capacity could be measured. A qualitative and quantitative report assessing capacity levels in U.S. fisheries is being completed. The results of the qualitative study are under review and are expected to be available in early 2001. The quantitative report is still under development, but should also be completed in 2001. Preliminary results indicate that the potential production of the commercial fleet is in excess of the actual level of production which suggests that excess capacity exists in the Atlantic HMS fisheries. Once the final qualitative report is available, NMFS will begin to discuss with industry options for reducing the capacity in Atlantic HMS fisheries.

## **9.2 Limited Access Permits for Atlantic Swordfish, Atlantic Sharks, and Atlantic Tunas Longline Category**

### **9.2.1 Status of the Program Established in the HMS FMP**

The HMS FMP outlined several objectives of a program that would limit access to the swordfish, shark, and tuna longline fisheries. These objectives included:

- Minimize, to the extent practicable, economic displacement and other adverse impacts on fishing communities during the transition from overfished fisheries to healthy ones.
- Consistent with other objectives of this FMP, manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, particularly with respect to food production, providing recreational opportunities, preserving traditional fisheries, and taking into account the protection of marine ecosystems.
- Reduce latent effort and overcapitalization in HMS commercial fisheries.
- Develop eligibility criteria for participation in the commercial shark and swordfish fisheries based on historical participation, including access for traditional swordfish handgear fishermen to participate fully as the stock recovers.
- Create a management system to make fleet capacity commensurate with resource status so as to achieve the dual goals of economic efficiency and biological conservation.

As stated in the HMS FMP, the goal of this *first step* of limited access in the Atlantic swordfish, shark, and tuna longline fisheries is *to begin to* rationalize current harvesting capacity with the available quota and reduce latent effort without significantly affecting the livelihoods of those who are substantially dependent on the fisheries (in other words, to prevent further overcapitalization).

The final eligibility criteria, which were based on current and historical participation, are summarized in Table 9.1.

**Table 9.1 Limited Access Eligibility Criteria\***

<b>Fishery</b>	<b>Historical Permit Time Frame</b>	<b>Directed Permit Landings Threshold</b>	<b>Incidental Permit Landings Threshold</b>	<b>Recent Permit Time Frame</b>
Swordfish	June 30, 1994 to Dec. 31, 1997	25 swordfish, or at least \$5,000 gross revenue from sales of swordfish, per year in any 2 years between 1987 and 1997	11 swordfish total from 1987 to 1997 and meeting the minimum earned income requirement*	June 1, 1998 to Nov. 30, 1998
Shark	June 30, 1994 to Dec. 31, 1997	102 sharks, or at least \$5,000 gross revenue from sales of sharks, per year in any 2 years between 1991 and 1997	7 sharks total from 1991 to 1997	Jan. 1, 1998 to Dec. 31, 1998
Tuna Longline	NA	NA	NA	Jan. 1, 1998 to Dec. 31, 1998
Swordfish Handgear	Must provide documentation of (1) having been issued a swordfish permit for use with harpoon gear or (2) having landed swordfish with handgear as evidenced by logbook records, verifiable sales slips or receipts from registered dealers, or state landings records. Permits also will be issued to fishermen who meet the minimum earned income requirement.**			

\*Two exemptions provided for persons that acquired ownership of a vessel and its landings history after December 31, 1997, and for persons that first obtained a shark or swordfish permit in 1997.

\*\*The minimum earned income requirement states that owners must provide documentation that more than 50 percent of their earned income from commercial fishing came through the harvest and first sale of fish or from charter/headboat fishing, or at least \$20,000 gross revenue from commercial fishing, during 1 of the last 3 calendar years.

In May, 1999, NMFS mailed permits to 796 vessel owners that met the final eligibility criteria, based on permit and landings records (203 directed swordfish, 218 incidental swordfish, 213 directed shark, 583 incidental shark, and 421 tuna Incidental/Longline limited access permits). NMFS finished processing the last of the appeals in September, 2000. Overall, NMFS received approximately 593 applications, 397 of which resulted in approval for a limited access permit. NMFS received 65 appeals, 24 of which resulted in the issuance of a limited access permit.

Between the permits issued in May, 1999, and successful applications/appeals, a total of 982 limited access permits have been issued. Approximately 240 directed swordfish, 203 incidental swordfish, and 125 swordfish handgear limited access permits were issued. Approximately 287 directed shark and 585 incidental shark limited access permits were issued. Approximately 292 tuna longline limited access permits were issued. The distribution of limited access permits by state is in Table 9.2.

The number of tuna longline permit holders in Table 9.2 should equal the sum of directed and incidental swordfish permit holders. In many cases, it does not. NMFS is aware of a number of permit holders that have not renewed their limited access permit(s). It is possible that some of the discrepancies in numbers can be explained by expired permits. In October, 2000, NMFS sent out a notice reminding permit holders to renew their permits.

**Table 9.2 Distribution of Limited Access Permits as of October, 2000.**

State	# Directed Swordfish	# Incidental Swordfish	# Swordfish Handgear	# Directed Shark	# Incidental Shark	# Tuna Longline	
ME	4	9	8	5	22	4	35/52
NH	-	1	2	1	5	1	8/10
MA	12	9	31	2	21	3	53/78
RI	8	7	31	1	17	7	46/71
CT	1	2	1	-	3	1	4/8
NY	20	11	13	9	30	21	50/104
NJ	35	31	16	37	48	56	99/223
DE	2	1	-	1	3	1	4/8
MD	8	2	-	3	7	9	11/29
VA	3	9	-	6	12	9	18/39
NC	9	41	5	24	54	19	82/152
SC	5	1	-	7	18	5	25/36
GA	1	1	-	2	6	1	8/11
FL	85	48	18	169	233	93	412/646
AL	3	2	-	1	6	2	7/14
MS	-	2	-	2	9	1	11/14
LA	36	12	-	9	62	42	72/161
TX	5	13	-	8	25	14	33/65
CA	1	1	-	-	2	2	2/6
VI	2	-	-	-	2	1	2/5
<b>TOTAL</b>	240	203	125	287	585	292	982/1732



### 9.2.2 Possible Next Steps

As emphasized in the HMS FMP, the current limited access system is only a first step. Based on the relative success of the system in place, additional steps may be taken to address overcapitalization. Now that the application/appeal process of implementing limited access is complete, NMFS will be able to monitor the success of the limited access program. NMFS will continue to solicit constituent comments on limited access and to examine improvements in the program over the next year. Possible future management measures could include:

- Attrition/Use or lose - reduce the number of permits based on lack of landings;
- Two-for-One entry - require entrants to the fishery to transfer two permits in order to obtain one limited access permit;
- Non-transferable Individual Fishing Quotas (IFQs);
- Individual Transferable Quota (ITQ) systems including landings based, auction, and/or lottery allocation;
- Permit buybacks; and,
- Changing the current species-based permits to a more gear-based permitting system.

As discussed in the 2000 SAFE report, there are a number of considerations to any change in a permitting system. Some of these considerations are listed below. NMFS will ensure an adequate comment period and public hearings before making any changes to the commercial shark, swordfish, or Atlantic tunas longline category permits.

*Points to consider when developing future management measures (from NMFS, 1999):*

- Is there broad stakeholder support and participation?
- Is the fishery amenable to cost-effective monitoring and enforcement?
- Is there adequate data, particularly concerning the socioeconomic effects of an IFQ? If not, what is needed?
- Is Federal-state cooperative management for sharks required before an ITQ program could be truly effective?

*Trade-offs of implementing additional management measures:*

- Increased economic efficiency may result in decreased employment.
- Decreased ability for young people without substantial capital to enter the fishery.
- Longer seasons promoting decreased derby conditions.
- Increased stability in the fishery, markets, and availability of fresh product for the public.
- Privatization of public resource and the creation of an expectation that allocation is a “right”.
- Potential windfall if initial allocation is “gifted” (possibly reduced through fees or taxes).
- Bycatch reduction.

### **9.2.3 Upgrading and Safety Issues**

When this limited access program was implemented, NMFS included upgrading restrictions that were the same as those implemented by the New England Fishery Management Council (NEFMC) and Mid-Atlantic Fishery Management Council (MAFMC) in order to help minimize the number of regulations for fishermen in those areas. These regulations restrict vessels from any increase over 10 percent length overall (LOA), 10 percent gross or net tonnage, and 20 percent horsepower. NMFS continues to receive comments that these vessel upgrading restrictions are not appropriate for primarily longline fisheries, are not the preferred vessel characteristics to limit overcapitalization, and have substantial safety at sea concerns. In the past year, NMFS has received comments that the current upgrading restrictions are too restrictive for smaller vessels (e.g. less than 35 ft LOA). In developing the current upgrading restrictions, hold capacity was identified by constituents as a vessel characteristic that would not impact safety at sea and would meet the objective of addressing overcapitalization in HMS commercial fisheries. NMFS did not implement hold capacity as a measure to limit vessel upgrading due to the lack of standard measurements of vessel hold capacity as well as the lack of consistent collection of this information for HMS commercial vessels as part of existing vessel registration systems. NMFS continues to consider other options (see Section 10.1.1.4) and, as with any potential changes in the permitting system, will ensure adequate public comment before changing the regulations.

## **9.3 Atlantic Tuna Permits**

In 2000, NMFS contracted Commerce One, formerly known as AppNet, Inc., to issue

Atlantic tunas permits. These permits, made available December 1, 1999, allow vessels to fish for, take, retain, or possess Atlantic bluefin, yellowfin, skipjack, albacore, and bigeye tunas. The HMS FMP established a fishing year for Atlantic tunas (June 1 through May 31 of the following year) in order to facilitate timely implementation of international management recommendations. Therefore, Atlantic tunas permits issued in 2000 are valid from the date of issuance through May 31, 2001. The Atlantic tunas permit will then be renewable on an annual (fishing year) basis.

The Atlantic tunas permits are the only HMS permits at this time that have categories based on gear type. The number of Atlantic tunas permit holders in each category is listed in Table 9.3.

**Table 9.3**      **The number of Atlantic tunas permit holders in each category as of October, 2000.** The actual number of permit holders in each category are subject to change.

Category	Number of Permit holders
Longline	292
Angling	14,908
Charter/headboat	2,728
Harpoon	44
Trap	4
General	6,705
Purse Seine	5
Total	24,686

#### 9.4 Dealer Permits

Dealer permits are required for commercial receipt of Atlantic tuna, swordfish, and sharks, and are detailed in Section 2.6.1 of the HMS FMP. Additionally, the appropriate dealer permit is necessary for those importing bluefin tuna and/or swordfish from any ocean, the specifics of which are discussed in Section 7 of this report. All dealer permit holders are required to submit reports detailing the nature of their business. For swordfish and shark permit holders (including those who *only* import swordfish), dealers must submit bi-weekly dealer reports on all HMS they purchase. Tuna dealers must submit, within 24 hours of the receipt of a bluefin tuna, a landing report for each bluefin purchased from a U.S. fishermen. Dealers must also submit bi-weekly reports that include additional information on tunas they purchase. Negative reports for shark and swordfish dealers are required when no purchases are made to facilitate quota monitoring (i.e., NMFS can determine who has not purchased fish versus who has neglected to report). NMFS is



considering mandatory negative reporting for BAYS tunas dealers. NMFS continues to automate and improve its permitting and dealer reporting systems and plans to make additional permit applications and renewals available online in the near future. The number of dealer permits issued by state and species is listed in Table 9.4.

**Table 9.4**      **Number of dealer permits issued in each state as of October, 2000.** The actual number of permits per state may change as permit holders move or sell their businesses.

State	Atlantic tunas	Atlantic swordfish	Atlantic sharks	
AL	-	3	2	5
CA	40	36	5	81
CT	7	-	-	7
DE	3	2	2	7
FL	23	94	100	217
GA	-	2	2	4
GU	1	-	-	1
HI	5	7	4	16
IL	1	1	1	3
KY	1	-	-	1
LA	16	16	16	48
MA	125	27	18	170
MD	12	7	6	25
ME	48	2	2	52
MO	-	-	1	1
MS	-	1	2	3
NC	31	11	15	57
NH	10	-	2	12
NJ	40	15	13	68
NY	69	22	13	104
OR	1	-	-	1
PA	1	4	1	6
PR	9	2	2	13
RI	32	10	7	49
SC	8	11	16	35
TX	2	10	11	23

State	Atlantic tunas	Atlantic swordfish	Atlantic sharks	TOTAL: # of permits
VA	19	4	4	27
VI	38	2	2	42
WA	2	6	1	9
Canada	-	13	3	16
Chile	-	1	-	1
New Zealand	-	2	-	2
Uruguay	-	1	-	1
TOTAL	544	312	251	1107

## 9.5 HMS Charter/Headboat Permits

The HMS FMP implements a new requirement that owners of charter boats or headboats that are used to fish for, take, retain, or possess Atlantic tunas, sharks, swordfish, or billfish must obtain a Highly Migratory Species Charter/Headboat permit. This new permit will replace the current Atlantic tunas Charter/Headboat permit. NMFS has received approval for these permits under the Paperwork Reduction Act and is in the process of articulating the full range of alternatives to address the new charter/headboat requirements. NMFS anticipates that the HMS charter/headboat program will be effective on June 1, 2001. At that time, anyone wishing to engage in charter/headboat activities for any HMS species will be required to hold an HMS charter/headboat permit.

## 9.6 Exempted Fishing Permits (EFPs) and Scientific Research Permits (SRPs)

EFPs and SRPs are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 50 CFR 635.32 govern scientific research activity, exempted fishing, and exempted educational activity with respect to Atlantic highly migratory species.

Issuance of EFPs and/or SRPs may be necessary because possession of certain shark species is prohibited, possession of billfishes on board commercial fishing vessels is prohibited, and because the commercial fisheries for bluefin tuna, swordfish and large coastal sharks may be closed for extended periods during which collection of live animals and/or biological samples would otherwise be prohibited. In addition, NMFS regulations at 50 CFR 635.32 regarding implantation or attachment of archival tags in Atlantic highly migratory species require prior authorization and a report on implantation activities.

In 2000, NMFS issued the following: 14 EFPs to collect sharks for display purposes,

including one which authorized the collection of tunas, as well; four EFPs for reseach conducted from non-scientific research vessels, including two permits for shark research, and one each for tuna and billfish research; six SRPs for research conducted from scientific research vessels, including four permits for bluefin tuna archival tagging and two for billfish research. Year-end reports for these permits are required, and are expected to be submitted to NMFS in early 2001.

## Section 9 References

- NMFS. 1995. Towards Rationalization of Fisheries for Atlantic Highly Migratory Species. July, 1995. Silver Spring, MD.
- NMFS. 1999. National Marine Fisheries Service's IFQ Advisory Panel Report on the National Research Council Report "Sharing the Fish: Toward a National Policy on Individual Fishing Quotas".